America's Free Trade for Illegal Timber

How US Trade Pacts Speed the Destruction of the World's Forests

environmental investigation agency

telapak

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Introduction

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As this report is published, the US is cementing economic partnerships which could further speed the destruction of Southeast Asian and Latin American forests. The list of looming US Free Trade Agreements (FTAs) reads like a who's who of states involved in the global illegal logging epidemic: Malaysia, Indonesia, Thailand, Peru and Central America.

The pending trade pacts are to be modeled on the first US free trade agreement with an Asian nation, signed with Singapore in May 2003. Hailed by both governments for its environmental provisions, the US-Singapore Free Trade Agreement (USSFTA) has, in practice, fuelled tropical deforestation and the illegal timber trade in Southeast Asia. The US is the world's largest wood products consumer[1] while Singapore is a major hub of the region's timber export market. After two years of increased trade between the two countries under the USSFTA, US imports of wood products* from Singapore are projected to be nearly three-times their pre-USSFTA levels in 2006,[2] and shipments via Singapore of Indonesian timber known to be of illegal origin have increased by 62%.[3] In the meantime, the USSFTA's environmental safeguards have gone unimplemented.

Currently, the US has no provisions in place to prohibit the import of illegally logged timber. The intended new partners, such as Malaysia, Indonesia and Peru, are already major sources of illegal timber entering the US, and Singapore remains a major hub for illegal timber trade. Signing these new agreements before the US takes action to prohibit imports of illegally produced wood will entrench and increase the US consumer as the main driver in the illegal logging epidemic around the world.

Such an outcome would create unacceptable social, environmental and political costs. Southeast Asia's tropical forests provide income and subsistence for tens of millions of poor people,[4] act as major carbon sinks (thus mitigating the global impacts of climate change), and contain four "biodiversity hotspots"—housing 32,000 known species found nowhere else on earth.[5] Illegal logging, driven by the voracious US demand for cheap timber, also undercuts America's domestic timber industry. Conservative estimates suggest that US timber businesses lose $1 billion worth of income per year due to depressed wood prices and lost exports.[6]

Although the Bush administration has recognized and condemned the devastating effects of illegal logging and black market timber on poor timber producing countries, it has ignored political commitments to stop US imports of illegal timber and abandoned effective measures to combat illegal logging in deference to an obsessive drive by the Office of the US Trade Representative to seal trade deals at any cost.

In 2003, the administration launched the President's Initiative Against Illegal Logging (PIAIL). In July 2005 at the G-8 Summit in Gleneagles in Scotland, it committed to "act in our own countries… [to] take steps to halt the import and marketing of illegally logged timber."[7] Yet in its pursuit of free trade agreements in Asia, the US government is doing the exact opposite: promoting increased, unfettered trade with countries identified as the linchpins of the region's huge illegal logging problem. (The Indonesian Forestry Ministry estimated that 80% of its tree felling is illegal,[8] costing the nation $4.5 billion a year in lost revenue.[9])

This report: 1) deconstructs the abject failure to date of the USSFTA's environmental provisions; 2) highlights the likely disastrous consequences if the free trade zone is expanded to include Singapore's neighbors and the worst offenders of illegal logging in Latin America; and 3) urges US domestic action to ensure that Asian and Latin American tropical forests and US timber industry interests are protected by a US prohibition on illegal wood imports ***before*** any further trade pacts are signed.

American demand is driving Asia's rampant deforestation. We must make the banning of the import of illegal timber a priority before time runs out for Asian and Latin American forests. Without enacting a US ban on illegal wood imports now, US free trade pacts will create a further surge in these imports which will devastate forests, ecosystems and communities abroad while further damaging the domestic industry at home.

* *Wood Products* as defined in this report include: all of Chapter 44 of the US Harmonized Tariff Schedule (*Wood and Articles of Wood*) and wooden furniture (HTS codes: 940330, 940340, 940350 and 940360)

Free Trade Agreements Open the Floodgates for Illegal Timber Imports

Industries that benefit economically from trade agreements argue that international trade without barriers provides significant economic benefits, including better access to international customers, expanded consumer choice and increased purchasing power. Other parties complain of devastating economic, social and environmental costs created by trade advantages enjoyed by powerful US companies, which gain access to the markets, natural resources and vulnerable trade sectors of other nations on highly favorable terms. When Free Trade Agreements stimulate increased trade in illegal timber, both sides loose.

The highly destructive impacts of illegal logging and the associated timber trade on vulnerable communities in Indonesia have been aggravated by the USSFTA. Similar agreements with Honduras (as part of the Central American Free Trade Agreement –CAFTA-DR) and Peru, for whom the US is already the dominant recipient of illegal timber shipments,[24,25] should be expected to have an even greater impact. Illegally logged mahogany products from protected areas in Peru and Honduras currently pour into the US. The timber trade from these nations is promoted by the US government despite the massive evidence of illegality.

Empty Promises: The US-Singapore Free Trade Agreement and the Environment

- May 6, 2003: President Bush and Prime Minister Goh of Singapore sign the US-Singapore Free Trade Agreement. President Bush hailed its "protections for our environment."[26]
- June 13, 2003: The Memorandum of Intent on Cooperation in Environmental Matters is signed. The US and Singapore pledge to meet "at least biennially to review the status of cooperation under this Memorandum" and "to devise a Plan of Action...at the first such consultation."[27]
- January 1, 2004: The USSFTA comes into force.
- January 2006: US timber imports from Singapore rise 68%.[28] [see graph, opposite page]
- January 2006: US imports of sawn timber and logs known to be illegal shipped through Singapore rise by 62%.[29] [see table, page 6]
- Spring 2006: The MOI Plan of Action is finally published with generalized provisions. The governments decide to discuss implementation "sometime in the calendar year."[30]

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Over 130 tons of illegal ramin in a warehouse in Singapore, October 2002.

An FTA that increases trade in illegally-sourced timber damages both the producing country and the US consuming market. With no current means of preventing illegally-sourced wood products from entering our markets, it is irresponsible for the US to continue to push for free trade with nations that play prominent roles in the illegal timber trade. This policy will only continue to destroy forests and livelihoods abroad while harming the timber industry at home.

US-Singapore Free Trade Agreement: Template for Forest Destruction?

The USSFTA could and should have set a positive precedent by ensuring that protection of the environment played a key role in US trade relations. It was the first US-led trade pact with an Asian nation and it did include specific language on environmental protection, committing the two countries to "strengthening capacity to protect the environment and to promote sustainable development."[31] The Office of the US Trade Representative (USTR) claimed it paved the way for "groundbreaking cooperation to protect the environment."[32] President Bush himself highlighted the agreement's "protections for our environment" at the signing ceremony on May 6, 2003.[33]

The mechanism for fulfilling these high profile promises was the *Memorandum of Intent on Cooperation in Environmental Matters* (MOI), signed a month later. This laid out a framework for "cooperative action" to strengthen environmental performance and institutional capacity, including two areas – enforcement and information reporting – critical to cracking down on illegal timber flows between the two nations.[34]

In May 2003, EIA published *Singapore's Illegal Timber Trade & The US –Singapore Free Trade Agreement* providing evidence that Singapore played a key role in smuggling illegally cut timber into other Asian nations and into the US. EIA investigations exposed Singapore as a central hub for illegal shipments of ramin, a highly valuable and endangered hardwood internationally protected by the *Convention on International Trade in Endangered Species* (CITES). Ramin was being illegally logged in Indonesian national parks and smuggled through Singapore and Malaysia onto the world market, including the US.

EIA documented more than $3 million of illegal ramin imported into the US via Singapore over a 10 month period without the required CITES permits.[35]

The MOI was partly triggered by concern that the USSFTA had weak environmental provisions. Congressman Levin (D-MI), Ranking Member of the Subcommittee on Trade within the Ways and Means Committee, stated that the agreement's environmental provisions were of "significant concern."[36] Senator Breaux (D-LA) also expressed concern over the inadequate environmental provisions, noting that they "should not be used as a model for future multilateral agreements in the region."[37]

These concerns, based on Singapore's well-deserved reputation as a clearinghouse for illegally sourced environmental goods, have since been validated. As tariffs of between 2.6% and 10.7% on wood products from Singapore have been removed, US imports of timber products doubled in 2005 and are projected to increase by half again in 2006 [see below].[38]

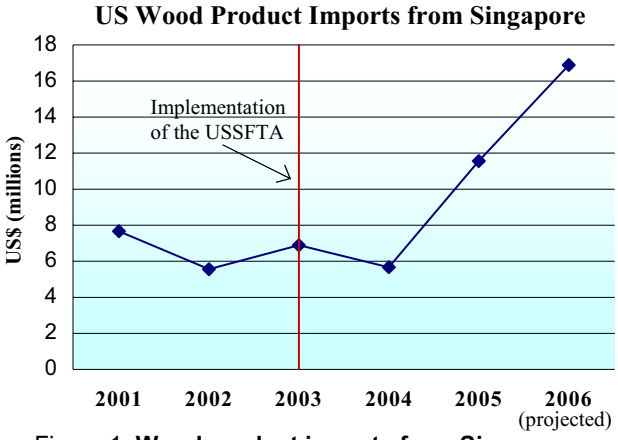


Figure 1: **Wood product imports from Singapore remained steady until the implementation of the USSFTA. Since Singapore has no forests of its own, it relies completely on imports for its wood manufacturing industry.** (Data from US International Trade Commission's DataWeb)

EIA analysis of US Customs data reveals that in 2005, US ports received at least 6,731 tons of Indonesian logs and sawn timber via Singapore, a 62% rise from the 4,158 tons imported in 2003 prior to implementation of the USSFTA.[39] As Indonesia had banned all exports of logs and sawn timber during that time, these shipments were known to be illegal in origin yet passed through Singapore in increasing volumes to the US since the signing of the FTA.

Other evidence that Singapore is more, not less, active in facilitating and financing illegal timber trade since the implementation of the USSFTA is detailed on pages 7-9. Among the proof of wrongdoing: Indonesian government investigations into money laundering using Singapore bank accounts, and revelations in the *Washington Post* [below] that Singapore imported 126,300 cubic meters of sawn timber from Indonesia in 2005 – in blatant disregard of the export ban.[40]

A20 SUNDAY, APRIL 9, 2006

For Timber Trade, Many Routes Lead Through Singapore

Illegal Indonesian Exports Are Concern

By ELLEN NAKASHIMA
Washington Post Foreign Service

SINGAPORE — A Singapore

sawed timber and log exports. And even if the timber is logged illegally, there is nothing illegal

An April 2006 article in the *Washington Post* identified Singapore as a major player in the regional illegal timber trade.

The USSFTA offered a major opportunity to crack down on illegal timber trade and related illegal activities and make Singaporean Customs and financial practices more transparent and accountable. Instead, three years on, the promised "cooperative bilateral activities" have failed to materialize. The Congressional Trade Environment Policy Advisory Committee (TEPAC) warned in their report that "*the actual achievement of these [environmental] objectives is dependent on the efficacy of the measures used to implement these objectives, the enforcement measures necessary to secure them, and the funding provided to them.*"[41]

The complete failure of the administration to realize the objectives reflects the lack of high level political support for action against imports of illegal timber and the abandonment of environmental protection in the obsessive pursuit of trade agreements. After almost three years, a vaguely worded "Plan of Action" to the MOI was finally published in spring 2006 that identified "initial cooperative projects to be pursued."[42] It makes only a passing reference to timber trade and contains none of the specific measures required to counter illegal activity, such as dedicated, fully funded enforcement activity to oversee all US-Singapore trade in environmentally sensitive goods.

Before the FTA was signed, TEPAC raised a red flag, highlighting the FTA's deficiencies. "*As to capacity building, a majority of the Committee notes that, while the Agreement stresses the importance of capacity building (i.e., environmental cooperation), it presents no specific activities to be undertaken...even once the MOI is finalized, the framework alone, without adequate funding, will not allow the achievement of Congress' objectives.*"[43] Unfortunately, the committee's warnings have proved highly accurate.

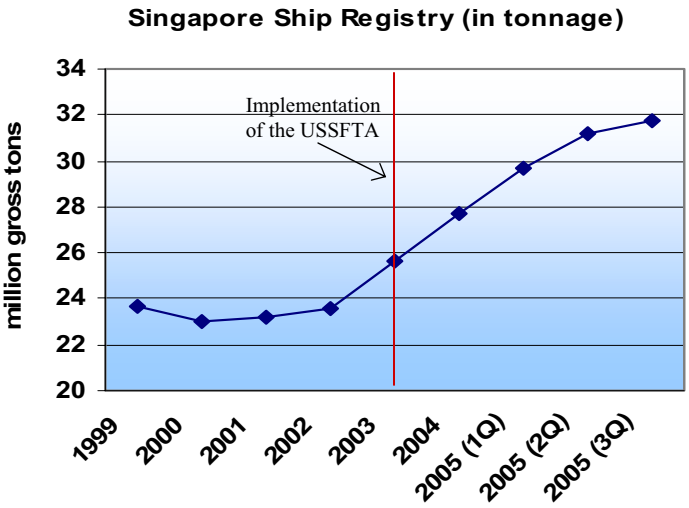
A Perfect Storm Brewing: Impacts of US-Singapore FTA Failure

As Singapore is a regional trade hub and in 2004 was the world's busiest port,[44] the USSFTA has already had a significant impact on the entire region. Forty percent of Singapore's exports are re-exports of products originating from other countries, and since January 2004 trade between the US and Asia-Pacific Rim nations (excluding China and Japan) has increased by 12.3%.[45] In the timber market, the two nations most impacted by expanding trade in both legal and illegal wood products, are Indonesia and Malaysia.

Indonesia has sought to halt the stripping of its forests to satisfy US and European demand – for example, by banning exports of logs, sawn timber and endangered ramin wood – but its enforcement controls are patchy and overwhelmed. The USSFTA is fuelling demand for Indonesian wood without providing the promised environmental protections, as demonstrated by the rise in US imports of illegal Indonesian logs and sawn timber transited through Singapore.

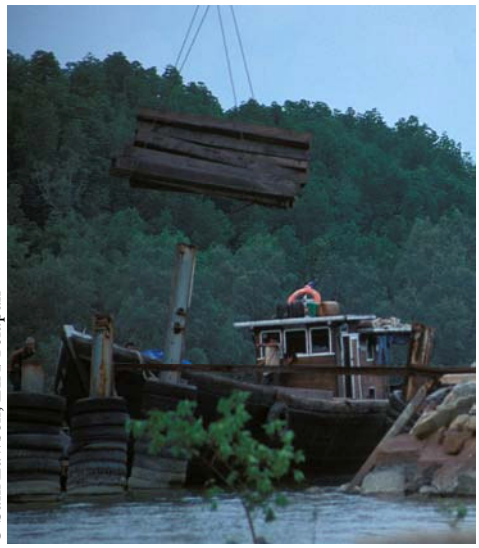
Meanwhile Malaysia, which boasts the region's biggest wood reprocessing industry, is profiting from the increased opportunities to feed US markets. Its government has repeatedly rebuffed Jakarta's requests to crack down on cross-border illegal timber traffic and many companies exporting Indonesian timber and financing illegal logging operations are Malaysian-owned. By re-labeling Indonesian timber as Malaysian, these companies make the wood "legal" and then ship it, often through Singapore's poorly controlled ports, to the US, Europe and China. A US-Malaysia FTA will provide an additional economic incentive for Malaysian companies to produce timber and wood products for the US from cheap illegal logs and sawn wood smuggled from Indonesia and stamped "Origin Malaysia."

What are the long term consequences for Southeast Asia? According to Congressional testimony, the USSFTA is "seen by all as a… robust template for future agreements in the region,"[46] and the USTR's Advisory Committee for Trade Policy Negotiations "hopes that the Singapore FTA will serve as a template for other agreements in Southeast Asia and the Pacific."[47] But the reality is that the USSFTA's weak and unenforced environmental provisions encouraged the alarming rise in Singapore-to-US illegal timber flows. This will become much worse if free trade agreements with Malaysia and Indonesia are approved in a similar mold. The USSFTA will become a template for accelerating the destruction of Asia's forests.



"The Singapore FTA will serve as a template for other agreements in Southeast Asia and the Pacific."
– USTR's Advisory Committee for Trade Policy Negotiations

Singapore's trade in illegal timber will likely increase in other directions as well, as it has its own Free Trade Agreements with the rest of the Association of Southeast Asian Nations (ASEAN nations include: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar (Burma), The Philippines, Thailand and Vietnam) and has begun the implementation of a FTA with China, via ASEAN. Singapore has also concluded trade bilaterals with Australia, Jordan, India, Japan, South Korea, New Zealand and Panama. It has ongoing negotiations with Bahrain, Canada, Egypt, Mexico, Pakistan, Peru, Sri Lanka, Kuwait, Qatar and the United Arab Emirates.[48] A general stimulation of trade in the timber sector in the region will increase the amount of illegal material arriving in the US via third countries that are major wood manufacturers such as Taiwan, Vietnam and China.



Illegal Indonesian squared logs being unloaded on the west coast of Peninsular Malaysia in May 2006.

© Sam Lawson, EIA/Telapak

Singapore's Protection of the Illegal Timber Market Since the FTA

Actions taken by Singapore's government, banks and companies since signing the USSFTA show a total disregard for the agreement's goals on environmental matters. With the exception of some low level steps regarding a single, low volume species of timber (ramin), it is impossible to identify any action by Singapore to support efforts to control illegal logging in Asia. Instead, the opposite is true. Singapore remains a safe haven for timber criminals and their money and is apathetic toward regional and international initiatives to control the illegal timber trade of which it is an important hub. In 2005, Singapore was the US's 12th largest trading partner with two-way trade exceeding $40 billion.[49] Unfortunately America's biggest trade partner in Southeast Asia is also one of the region's worst environmental citizens.

Trade Data Secrecy

Until 2005, when it was surpassed by Shanghai, Singapore handled more cargo tonnage than any other port in the world. It remains the world's largest port in container-handling capacity,[50] and the largest transhipment port for containers destined for the US.[51] Indeed, 80% of containers handled in Singapore are for transhipment,[52] including timber originating both legally and illegally from across Southeast Asia.

Malaysia, China, Taiwan and Thailand make up four of Singapore's six largest import partners.[53] Indonesia is conspicuously, and erroneously, absent from this list. Exchange of goods, including timber, has boomed between the two countries since the establishment of the Association of the Southeast Asia Nations (ASEAN) in 1967, yet Singapore has kept the data secret despite numerous appeals to publish it. In 2003, Indonesia's Minister of Trade and Industry, Rini Soewandi, accused Singapore of frequently misrepresenting transactions between their countries, noting major discrepancies in numbers recorded by Singapore and those recorded by Indonesia. The Minister also accused Singapore of not being serious in eliminating smuggling, which she stated in a letter had "reached a critical level for the Indonesian economy."[54] The USSFTA "requires transparency in customs administration"[55] but Singapore continues to withhold its trade data on illegal Indonesian timber and other environmentally sensitive trade by refusing transparent disclosure.

Financing the Timber Smugglers

Singapore's lack of transparency is not limited to its trade data. A global financial hub, the city-state also acts as the primary depository for the fortunes generated by illegal logging across Southeast Asia. And there is no indication that such activity is slowing down since the USSFTA was implemented.

For example, a 2005 EIA investigation into the largest single illegal timber trade stream identified to date—approximately 300,000 cubic meters a month of merbau logs flowing from Papua Province to China—revealed that Singaporean banks were the preferred source of credit to bankroll the black market operations. Singaporean companies also chartered vessels used to transport the illegal logs and timber and actively facilitated the trade by providing brokerage services that linked criminal syndicates in Indonesia to buyers in China.[56]

EIA has also documented how notorious timber barons continue to own mansions, hold bank accounts and engage in business activities in Singapore. For example, the most influential trader in the illegal ramin trade (referred to as "The Ramin King") is residing openly in Singapore.[57] Abdul Rasyid, an infamous timber baron whose Tanjung Lingga company has a lengthy involvement in large scale illegal logging in Indonesia's Tanjung Puting National Park, maintains an office and residence in Singapore.[58]

EIA investigators met with timber traders in Singapore in 2003, who proudly explained on hidden camera the methods they used to smuggle Indonesian ramin through Singapore and onto the world market. Above—notorious smuggler Frankie Chua counting stacks of US 100-dollar bills. Right—smuggler displaying his illegal ramin stock.

Singapore's lack of control over international trade in illegal logs and timber moving through its territory has enabled companies with ties to illegal logging to flourish. The Singapore-based shipping conglomerate, Pacific King Shipping Holding Ltd., owns a fleet of large cargo vessels which are used to ship tens of thousands of logs from SE Asian tropical forests. Much of the timber and logs are illegally cut in Indonesia and moved to sawmills in other countries in the region.[59]

Transhipment Increases After USSFTA

	US Imports of Wood Products via Singapore	US Imports of Banned Indonesian Logs and Sawn Timber via Singapore
2003 (prior to USSFTA)	93,768 tons	4,158 tons
2005 (after USSFTA)	237,901 tons	6,731 tons
Percent Increase	**154%**	**62%**

Since 2001, four of Pacific King's vessels have been seized in Indonesian waters while attempting to smuggle logs abroad. Pacific King ships logs for infamous timber barons like Abdul Raysid [below] and Ahong, and is also connected to one of Singapore's most notorious timber smugglers, Frankie Chua [see picture on pg 5], who was introduced to EIA undercover investigators in 2003 as "a timber smuggler...the mafia."

Five of Pacific King's fourteen largest clients have ties to the smuggling of illegal Indonesian logs, including the company's single biggest customers in each of the last four years.[60] No Singaporean action has been taken regarding the company's links to illegal logging.

Meanwhile, Indonesian authorities are currently investigating bank accounts in Singapore from which $10 million was moved into Indonesian accounts accessed by timber company representatives, military, police and Forestry Ministry officials in areas rife with illegal logging. Yunis Husein, head of the Indonesian *Financial Transaction Reports and Analysis Center*, told *The Washington Post* he intends to seek information from Singapore to aid the investigation, but based on Singapore's history of guarding banking data, is not optimistic they will respond.[61]

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Above—Abdul Rasyid's Tanjung Lingga Group has been at the center of illegal logging in Tanjung Puting National Park; one of the last strongholds of the orangutan. He sits here as an MPR in Indonesia's highest legislative body.

An Expanding Role in US Illegal Timber Imports

Since the USSFTA's signing in May 2003, investigations by EIA and others have shown that Singapore's role in Southeast Asia's illegal timber trade is growing, not decreasing. Trade data point to both the USSFTA's stimulating impact on the timber products sector in Singapore, and to a marked increase in the transhipment of Indonesian timber products to the US.

According to the US International Trade Commission's database, the US imported $6.9 million worth of wood products from Singapore in 2003 prior to the USSFTA's implementation. By 2005, US wood products from Singapore increased by 68% to $11.6 million. The first quarter of 2006 shows another 46% increase over the corresponding time period in 2005 [see graph, pg 5]. This means more products are reported as 'origin Singapore,' perhaps to take advantage of lowered tariffs.

During the same time period, US customs data show that shipments of timber products from Indonesia arriving in the US via Singapore (or 'transhipped') increased by 154%, to reach 237,901 tons in 2005 [see table above]. Documented *illegal* shipments of Indonesian logs and sawn timber, both banned by Indonesia from export, increased by 62% during the same time period. Why this increase in apparent transhipments? Only products of Singaporean origin should benefit from tariff reductions, not products originating in third countries (such as timber from Indonesia). The FTA may be facilitating increased timber trade via other measures such as decreased paperwork, low customs restrictions and/or improved communication and access to US customers. What is certain is that transhipment is a time-honored method by smugglers to mask the origin of goods. An increase in such trade, particularly of any illegal cargo, should be of great concern.

The data suggest that the USSFTA's customs provisions requiring "transparency and efficiency in Customs administration" - hailed by USTR as "groundbreaking" - have not been honored by Singapore in relation to timber imports and exports. Nor has the provision that "both parties agree to share information to combat illegal trans-shipment of goods."[62]

Failure to Stop Singapore Companies Smuggling Timber

These trade data provide only one aspect of Singapore's failure to curb illegal timber trade following the USSFTA. Recent anecdotal information gathered by undercover EIA investigators documents widespread involvement by Singaporean companies, including:

- An investigation of sawmills along the east coast of Sumatra, Indonesia in March 2006 uncovered a series of small smuggling operations to Singapore and Peninsular Malaysia. Investigators were offered contact information for Malaysian and Singaporean nationals to "assist us with our smuggling needs."[63]

- Batam, an Indonesian island just south of Singapore, was identified as a crucial transit point for some of these smuggling operations. Batam, and its sister island Bintan, were included in the USSFTA for certain products produced there. The wholly inadequate port enforcement measures in Batam have been widely documented.[64,65] While timber was not one of the products specified under the USSFTA, it is likely that shipments from the islands receive preferential treatment in Singapore as a result of the USSFTA.

- Singapore-based Neeshai Trading bribes authorities to smuggle wood from Indonesia to Singapore and Peninsular Malaysian ports. Each transaction requires $6,000 to $13,000. Company employees have been arrested twice but paid off the authorities and were then allowed to proceed. Neeshai has smuggled ramin through Singapore as recently as January 2005.[66]

Rebuffing Regional Illegal Logging Initiatives

Despite its notoriety as a major hub of stolen timber activity in Southeast Asia, Singapore has steadfastly refused to engage in regional or international initiatives to curb the trade in illegal timber and wood products. It declined an offer to host the ministerial-level meeting of the East Asian Forest Law Enforcement and Governance (FLEG) process launched in 2001, which now involves ten Asian nations, the European Union countries and the US. Five years on, Singapore has still taken no part in this promising initiative. Singapore does not participate in meetings of the United Nations Forum on Forests (UNFF), the International Tropical Timber Organization (ITTO) or the Asia Forest Partnership. Singapore has participated in low level discussions with Indonesia and Malaysia on illegal trade in ramin, but this has so far failed to generate any substantive action against illegal ramin trade.

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Ramin being lifted out of an Indonesian-flagged vessel into a Free Trade Zone in Singapore, 2003.

This lack of action contrasts sharply with the commitments Singapore made in the USSFTA and its accompanying MOI, to enforce domestic laws, including those designed to prevent illegal trade in environmentally sensitive products such as timber. The agreement requires that "both parties shall ensure that their domestic environmental laws provide for high levels of environmental protection;" and that the "parties shall effectively enforce their own domestic environmental laws."[67]

No Help from Singapore in Cases of Regional Enforcement Cooperation

In early 2005, the Philippine Dept. of Environment and Natural Resources and EIA uncovered a trade route involving 60,000 m^3 of logs shipped via a series of barges, all accompanied with Papua New Guinea paperwork [below]. The logs arrived in the southern Philippines where they were transhipped to several large cargo vessels [right] and sent to India, China and Malaysia.

© Philippine DENR (both)

As a result of cooperation between PNG, the Philippines and Indonesia, it was determined that the logs were in fact smuggled out of Papua, Indonesia with forged paperwork. The companies that brokered this illegal trade flow were based in Singapore, including Wajilam Exports (S) Pte Ltd. The case was presented by the Philippine government to the Asia Forest Law Enforcement and Governance Task Force, which Singapore refuses to attend. The FLEG Task Force met in February 2006 and recommended the establishment of a regional enforcement mechanism to control the transboundary movement of illegal timber.

US Free Trade Agreements and Th

© Sam Lawson, EIA/Telapak

Illegal merbau logs piled near Shanghai. China's hardwood imports were described by the American Forest & Paper Association as being "a 'Who's Who' of countries with problems with illegal logging."[10]

SOUTH KOREA

C H I N A

© EIA / Telapak

Illegal Indonesian squared logs being unloaded in May 2006, two weeks before FTA negotiations began.

Thailand 2005 wood products to the US = $447 million;[13] 70% of Thai logging is illegal[14]

THAILAND

Indonesian timber through Singapore identified as illegal, totaling 6,700 tons in 2005, increased by 62% since the FTA implementation[15]

M A L A Y S I

SINGAPORE

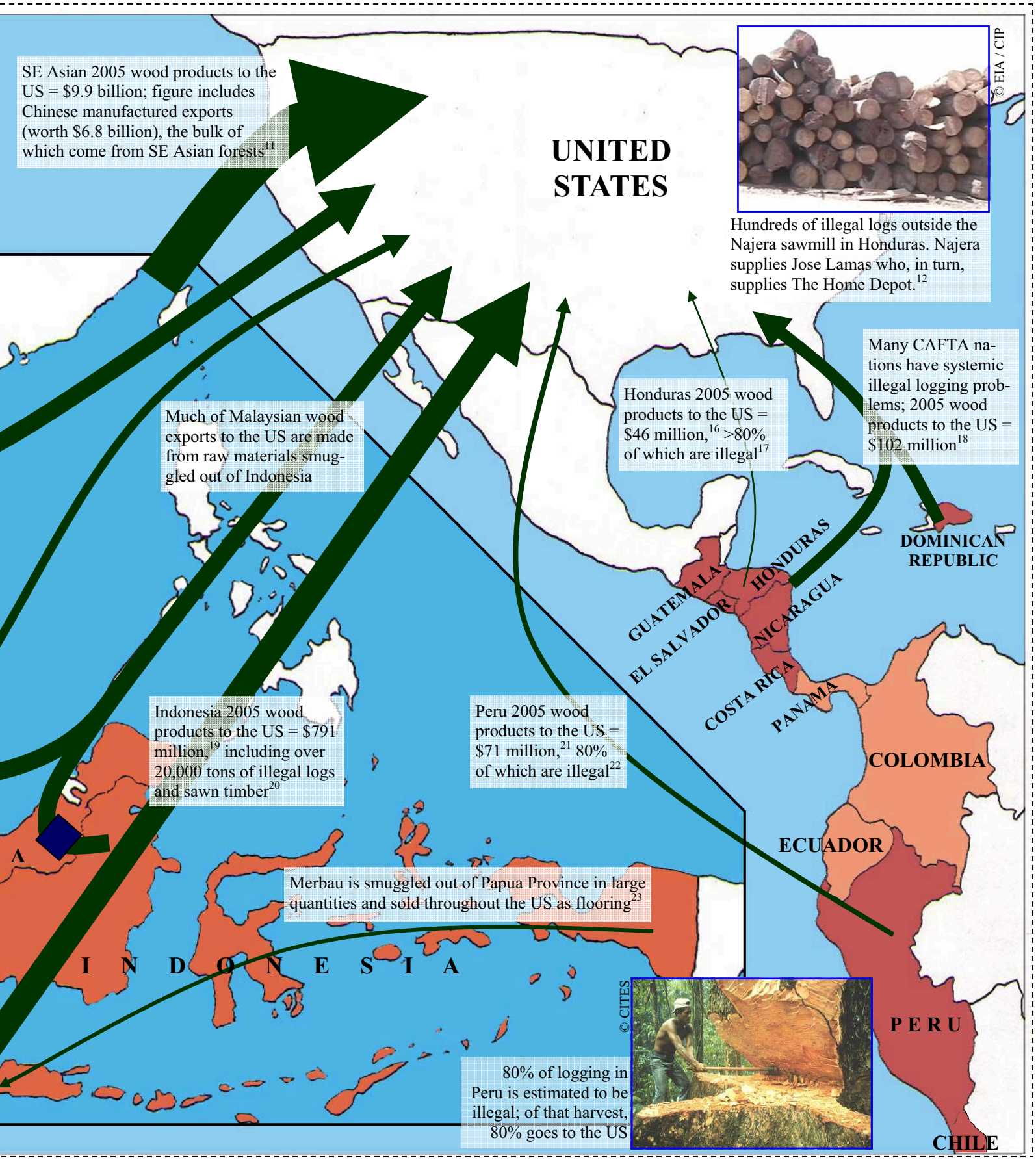
A U S T R A L I A

= Existing FTAs with the US

= Intended free trade pacts with the US

= major flows of illegal timber

eir Associated Illegal Timber Flows



US Demand and Inaction Destroy Asia's Forests

US demand plays a pivotal role in Southeast Asia's logging and timber trade industries, both legal and illegal. If American consumers did not present a huge market for cheap imported wood products – from flooring to furniture, picture frames to wood blinds – the rationale for razing Asia's remaining tropical forests would be greatly reduced.

The US imported $9.9 billion in timber and wood products from East Asia, with $6.81 billion from China alone.[68] In 2005, the US directly imported $791 million of wood products totaling over 723,000 tons from Indonesia, according to PIERS data. Given that Indonesia's own Ministry of Forestry has estimated that 80% of domestic logging is illegal, hundreds of millions of dollars worth of illegal Indonesian timber alone reached US shores in 2005.[69] It is clear that products made from stolen timber pervade the shelves of both superstores and small retailers, thus ending up in American homes.

The US government has repeatedly acknowledged that illegal logging is a pressing problem that must be addressed. But in international negotiations and domestic policy statements the Bush administration insists that the onus for action is on producer, not consumer countries. Muhammad Prakosa, the former Indonesian Minister of Forestry, described consuming nation's role in the following way:

"Expecting or asking one country to combat illegal logging while at the same time receiving or importing illegal logs does not support efforts to combat these forest crimes. In fact allowing import [of] illegal logs and associated products will only intensify the crimes… allowing [the] import and trade [in] illegally cut timber and associated products could also be considered as an act to assist or even to conduct forest crime." [70]

© EIA

Merbau flooring, the vast majority of which is illegally-logged in Papua Province, Indonesia, is available throughout the US in leading retail chains.

> ***Allowing the import and trade in illegally cut timber and associated products could also be considered...forest crime."***
>
> -former Indonesian Minister of Forestry, Muhammad Prakosa

This damaging US intransigence is puzzling for several reasons. First, illegal logging in poor producer countries hurts American timber companies. Wood products made from illegal timber avoid the costs associated with legal production, such as paying for management plans, stumpage fees, duties and tariffs. Such illegal timber and wood products are then sold into the US at a discount price, undercutting domestic companies. The American Forest & Paper Association estimates that US timber producers lose about $1 billion every year due to global illegal logging: $460 million from lost foreign exports and $500-700 million due to depressed prices caused by illegal material in the market.[71] These losses do not include pulp and paper derived from illegally sourced wood or US sales abroad that may be lost due to pulp and paper produced from illegally logged trees.

Second, illegally cut timber from endangered tropical forests is known to be entering US ports in large quantities. The rise in illegally sourced timber imports from Singapore revealed in this report is only the latest in a long history of documented black market activity. In 2002-03, US authorities made more seizures of illegal ramin, an endangered Indonesian hardwood, than of all other products seized under the provisions of CITES.[72] EIA data analysis revealed that over a ten month period during 2001-2002, 324 shipments of ramin valued at over $11 million entered the US from Singapore alone, 80% of which were shown to be illegal. One timber smuggler caught on hidden camera by EIA investigators in Singapore boasted that, "this smuggling [is] better than drug smuggling."[73]

Third, the US has launched or signed up to a series of major commitments designed to combat illegal logging and timber trade worldwide [outlined below].

High Profile Commitments

Starting in 2001, the US government helped fund and facilitate the launch of the FLEG process, first in East Asia in September 2001, then in Africa in 2003 and in Eastern Europe and Northern Asia in 2005. These have resulted in significant commitments by the US and approximately 100 Asian, African and European nations to a range of actions to suppress illegal logging and timber trade.

In 2003, President Bush instigated the President's Initiative Against Illegal Logging (PIAIL) which prioritizes US action in Southeast Asia, Central America and the Amazon and Congo basins.[74] While this has led to some useful US funding for capacity building and forest community projects in poor producing countries, it has yet to produce substantive action to curb US imports of illegal timber.

In July 2005 at the Gleneagles Summit in Scotland, the US and other G8 nations committed to actions to combat illegal timber trade worldwide, specifically that: "We will act in our own countries. We will take steps to halt the import and marketing of illegally-logged timber."[75]

These high profile commitments, together with the damage to US timber interests, might have been expected to trigger major initiatives to curb US imports of illegal wood, such as vetting timber shipments at US ports or amending the existing Lacey Act to enable such imports and their subsequent sale to be illegal. Instead, the Bush administration has failed to take any meaningful action to prohibit the import of illegally logged timber or wood products into the US.

Turning a Blind Eye: Lack of Leadership on the US-Singapore FTA

Given this record of US failure to back environmental commitments with domestic action, it is perhaps no surprise that the US-Singapore MOI has so far failed to deliver the promised "cooperation…in the field of environmental protection and the sustainable use of natural resources."[76]

In fact, the Bush administration's cavalier attitude to the USSFTA's environmental provisions was displayed before the agreement was even implemented - in the Environmental Review of the USSFTA, as required by law. This document was produced by the Office of the US Trade Representative, with significant input from the White House Council on Environmental Quality, the Departments of Agriculture, Commerce, Interior, Justice, Treasury, and State, the US Environmental Protection Agency and the US Agency for International Development. The review first acknowledged that *"international trade can play a role in stimulating, enabling, or rewarding illegal activities in a number of Asia-Pacific countries where illegal logging has been identified as a significant cause of deforestation."* Inexplicably, it then stated: *"The FTA is not expected to result in significant shifts in the pattern of timber trade through Singapore."* It also asserted: *"Moreover, the FTA's rules of origin disciplines will ensure that the FTA does not affect U.S. imports of forest products originating elsewhere and transiting through Singapore."*[77]

We will act in our own countries. We will take steps to halt the import and marketing of illegally-logged timber.

-G8 Environment and Development Ministerial, March 18, 2005

Given that illegal timber was already known to be entering the US via Singapore, and that abolishing timber tariffs has to be expected to increase the trade in products of Singaporean origin, the review's conclusions were clearly flawed, as EIA and the World Wildlife Fund warned at the time. Three years on, the evidence presented in this report proves these concerns correct.

US policymakers now have a key opportunity to learn from this experience by amending the US Lacey Act to prohibit the import of illegally produced timber or wood and to require those nations signing trade pacts with the US to enact similar legislation well before the provisions of the trade agreement take effect. Pressuring potential Asian trading partners to crack down on illegal logging will not suffice. The US must take long-overdue responsibility for shutting its own borders to illegal timber.

America Consuming the World's Dwindling Rainforests

- The US is the world's biggest consumer of wood and wood products; worldwide imports total about $25 billion a year.[78]
- US wood imports from China –a major processor of logs cut illegally in Indonesia - have soared in recent years from $2.5 billion in 2001 to $6.8 billion in 2005, a 173% increase. This year's wood imports are continuing the same trend with a 20% increase in 2006 year-to-date figures over 2005.[79] China's sources for hardwood imports have been described by the American Forest & Paper Association as "a 'Who's Who' of countries with illegal logging problems."[80]
- Illegal logging on public lands alone worldwide to supply US and other markets costs poor countries an estimated $10-15 billion a year in lost revenue and assets.[81]
- US consumption of wood flooring rose by 40% between 2000 and 2004, when sales reached $2.4 billion.[82]
- BlueLinx, America's biggest importer of Indonesian plywood agreed to reduce imports by more than 80% after a campaign by Rainforest Action Network, Greenpeace and EIA targeted the high volume of undocumented or illegal timber in plywood production.
- The Home Depot and Lowe's with a combined 3200 stores, both sell a range of wood products harvested in Asian rainforests, including merbau, teak and kempas species. By 2001, they were the world's largest and second largest buyers of wood.[83]

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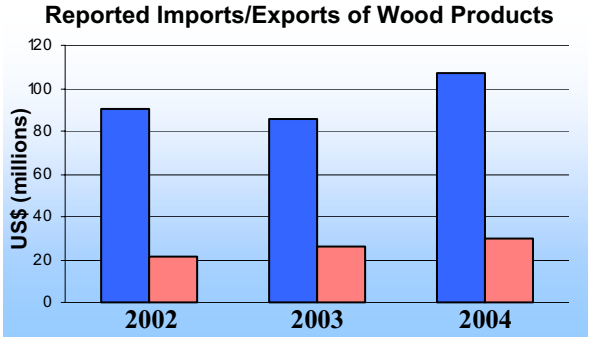
Lessons for Pending US Free Trade Agreements

Free Trade with Malaysia: Rewarding Environmental Crime?

Malaysia is by far the world's largest exporter of primary tropical timber. In 2004, its exports of tropical logs, sawn timber, plywood and veneer totaled 12.6 million cubic meters (m^3), worth $2.9 billion. Malaysia exported an additional $2 billion in 2004 of secondary processed tropical wood products, e.g. furniture, moldings, etc.[84]



Malaysia's reported imports of wood products from Indonesia (blue bars) are far greater than Indonesia's reported exports (red bars). Much of this discrepancy can be attributed to illegal trade.
(Data from UN Comtrade)

Malaysia is also a major source of illegally logged timber entering the United States. As its own forests have dwindled, Malaysia's huge timber processing industry has become increasingly reliant on cross-border imports of illegally logged wood from its neighbor, Indonesia.

A World Bank study in 2001 found total operating capacity at Malaysia's more than 1,000 functioning sawmills to be 40 million m^3, while domestic log production was only 22 million m^3. [85] Another independent study with consistent results found that Malaysia's use and export of timber in 2001 had exceeded available supplies from legal cutting and import by more than 13 million m^3. It concluded that the balance "was in all probability acquired illegally."[86] In addition, 413,000 m^3 or 41% of Malaysia's *reported* sawn timber imports in 2004 were from Indonesia, in violation of Indonesia's export ban on sawn timber. Indonesia reported the export of only 10,648 m^3 of sawn timber to Malaysia.[87] Successive Indonesian governments have requested action by Malaysia to halt the cross-border smuggling but each has been rebuffed [see box].

The Malaysian timber industry's dependence on illegally logged raw materials already threatens to undermine US support of initiatives to control illegal timber trade worldwide. In particular, its role in the stripping of Indonesia's remaining forests has major implications for the recently announced US-Indonesia bilateral on illegal logging. During the last five years, EIA and other organizations have provided repeated detailed evidence of Malaysian companies' extensive involvement in the trade of illegal Indonesian timber. EIA and Telapak investigations since 2001 have repeatedly uncovered widespread smuggling of illegal logs, squared logs and sawn timber. Further investigations uncovered highly developed trade routes used to smuggle thousands of tons of internationally protected ramin, illegally cut in Indonesia's national parks and smuggled through Malaysia, often in full complicity of the authorities. The scale of the smuggling was so extreme that no ramin on the world market could be reliably considered of legal origin [see box opposite page].[88]

In 2005, an EIA report exposed the largest trade route for stolen timber ever uncovered, involving the logging and smuggling of $600 million worth of Indonesian merbau hardwood to China every month. Much of the financial backing came from Malaysian-based companies and Malaysian nationals operating in Indonesia.[89] Of 68 suspects identified by Indonesian police as involved in the racket, 42 were Malaysian.[90]

Just completed investigations by EIA and Telapak in May 2006 in Peninsular Malaysia documented the continued flow of illegal Indonesian flitches and rough sawn timber into Malaysia, even as the negotiations for a US-Malaysia FTA are underway.

Malaysia's Hostility to Initiatives Against Illegal Logging

Malaysia, with Singapore, refused to participate or endorse the East Asian Forest Law Enforcement and Governance (FLEG) commitments, whose parties include all other major timber producing and consuming countries in the region.

Malaysia has expressly refused repeated requests from Indonesia to help enforce Jakarta's ban on sawn timber exports by imposing a reciprocal ban on imports. It is currently Malaysian stated policy to allow imports of Indonesian rough sawn timber, which is proven to be illegally exported out of Indonesia.

In negotiations with Indonesia on a bilateral agreement to reduce illegal logging initiated in 2005, Malaysia refused to agree to Indonesia's requests to take new measures to counter cross-border timber smuggling. Instead, Malaysia is seeking to persuade Indonesia to relax its export bans of logs and sawn-timber, essentially using the negotiations to seek to legalize the illegally produced timber its industry is so reliant on. The talks are now deadlocked.

Malaysia has recently stalled its negotiations with China to implement a prior notification system for timber products.[91]

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Illegal Indonesian squared logs being unloaded from a vessel on the west coast of Peninsular Malaysia, just prior to the initial round of US-Malaysia free trade agreement negotiations.

Given Malaysia's track record of non-cooperation on combating the illegal timber trade, rampant deforestation continuing in Indonesia, and the US's track record of ineffective implementation of the USSFTA MOI and its refusal to take action to stop imports of illegal wood products, the current negotiations on a US-Malaysian free trade agreement raise grave concerns.

Malaysia Flouts UN Endangered Species Rules, May Face US Sanctions

Ramin is a rare and valuable blond tropical hardwood found only in Indonesia and Malaysia. In 2001, to counter illegal logging in its national parks, Indonesia listed ramin on Appendix III of the Convention on International Trade in Endangered Species (CITES). This made it a requirement for CITES documentation to accompany all shipments of ramin products traded internationally. Indonesia simultaneously banned almost all ramin cutting and export.

As a CITES signatory, Malaysia should have halted all imports of ramin from Indonesia in 2001 and started issuing CITES permits for its own ramin exports. Instead, its government refused to implement the listing in full, exempting processed wood products.

A series of EIA exposés of Indonesian ramin entering Malaysia without CITES permits culminated in early 2004 in the unmasking of a Malaysian-based laundering network involving more stolen timber than the global legal ramin supply.

These serious transgressions of a UN treaty prompted seven NGOs in 2004 to file a *Pelly Petition* requesting US trade sanctions against Malaysia. Under US law, such action can be used when "nationals of a foreign country, directly or indirectly, are engaging in trade or taking which diminishes the effectiveness of any international program for endangered or threatened species."[93] The petition is currently pending. Meanwhile Malaysia has taken no action to close the loopholes in its CITES legislation.

As EIA testified in recent formal hearings on a US-Malaysia FTA, such an agreement would undoubtedly have a bigger impact than the USSFTA in increasing illegal timber imports. As the *Final Environmental Review of the US-Singapore Free Trade Agreement* states: "international trade can play a role in stimulating, enabling, or rewarding illegal activities in a number of Asia-Pacific countries where illegal logging has been identified as a significant cause of deforestation." This is especially true for Malaysia, which exported $827 million of wood products directly to the US in 2005.[92]

"International trade can play a role in stimulating, enabling, or rewarding illegal activities in a number of Asia-Pacific countries where illegal logging has been identified as a significant cause of deforestation."

-Environmental Review of the US-Singapore Free Trade Agreement

Like Singapore, Malaysia has a porous customs system with domestic 'free trade zones' enabling the flow of large quantities of illegal timber. However, Malaysia is already a much larger importer from Indonesia and exporter to the US of tropical timber than Singapore ever was. Additionally, its massive timber products manufacturing industry has a long history of expertise in re-labeling illegal Indonesian timber as "origin-Malaysia." Once such shipments become 'officially' Malaysian, they will provide an even greater funnel for illegally logged timber and wood products from Indonesia and all other producers in the region.

If the FTA with Malaysia proceeds, it is imperative that the US government takes swift and comprehensive action to enact domestic measures to stop the import of illegal timber and wood products into the US. Specific recommendations to achieve this are outlined in the Recommendations Section on page 16.

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Illegal Indonesian squared logs being loaded on trucks on Peninsular Malaysia's western coast, two weeks before FTA negotiations with the US are scheduled to begin.

US-Indonesia Illegal Logging and Free Trade Pact

Around 80% of the 60 million cubic meters of logs felled each year in Indonesia are harvested illegally, according to the country's Ministry of Forestry.[94] As a result, Indonesia loses revenues of $4.5 billion a year that is much needed for the education, health and welfare of its citizens.[95] Every year, 2.8 million hectares (6.9 million acres) of forest are lost[96] (more than 5 hectares every minute)—an area larger than the state of Massachusetts.

The US is a major market for Indonesian timber and wood products, both legal and illegal. A Trade and Investment Framework Agreement (TIFA) between the two countries is already in operation, facilitating increased imports of Indonesian goods and services, including wood products. TIFAs often serve as precursors to full-fledged free trade agreements.[97] In April 2006, *Reuters* reported that US and Indonesian trade representatives "hoped the logging talks and other bilateral initiatives…would lead to the negotiation of a bilateral free trade agreement."[98]

Against this background, the US and Indonesian governments have announced plans for a bilateral agreement to combat illegal logging.[99] EIA welcomes this initiative as a major opportunity to curb illegal timber trade and its devastating impacts on Indonesia's forests and people. However, a preliminary draft of "US Objectives" for the bilateral, obtained by EIA, raises serious concerns. The stated objectives focus mainly on harmonizing laws, policies and economic incentives across Indonesian ministries in order to combat illegal logging; and strengthening Indonesian law enforcement and customs capacities to control illegal logging, timber exports and forestry sector corruption.

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Orangutans (Malay for 'man of the forest') are the only great apes found outside the African continent. A recent study linked the catastrophic collapse of the orangutan population with the massive deforestation of their habitat.[100]

These are worthy goals, especially when backed by US funds and technical support. But the US objectives fail to include measures to stop US imports of illegal timber and wood as promised by the G8 nations in 2005. Without US measures to close its borders to illegal timber, the agreement will be ineffectual and will guarantee the continued trade flow of large volumes of illegal Indonesian timber and wood to the US. As EIA has argued throughout this report, capacity building in producer countries alone will not prove adequate. US demand for cheap timber will overwhelm the enforcement capacity of Indonesia, encouraging loggers to cut illegally, brokers to trade illegally and government officials to look the other way. The US cannot escape its responsibility for driving Indonesia's deforestation through its demand for cheap timber and its failure to stop illegal wood imports.

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A raft of logs on the Seruyan River near Tanjung Puting National Park, Indonesia. Malaysia is the main processing hub of smuggled Indonesian ramin before it enters the world market.

In 2005, the US directly imported an estimated $600 million worth of illegally-logged Indonesian timber.[69]

It is no accident that the illegal logging bilateral is being negotiated with the prospect of a US-Indonesia FTA on the political horizon. The two governments clearly recognize that, under a business-as-usual scenario, removing tariff barriers will mean more illegal timber reaching US ports. In fact, federal officials have already expressed such concerns. Following the December 2004 Asian tsunami, the US removed import tariffs on Indonesian plywood, 55% of which is estimated as being derived from illegally cut logs,[101] to help boost economic recovery. However, EIA has learned that State Department officials warned that imports of illegal plywood would increase as a result of the lowered tariffs, directly undermining President Bush's much-hyped *President's Initiative Against Illegal Logging*. According to a senior government source, this realization of a major conflict of US interests helped trigger the decision to pursue an illegal logging agreement with Indonesia.[102]

Unfortunately, progress on the agreement has so far been conducted with an unusual lack of transparency. No opportunities have been provided for input by environmental NGOs or other civil society organizations. EIA has learned that a meeting to agree to preamble language, planned for June 1, has been postponed. Our urgent recommendations for US government action to ensure that the bilateral results in meaningful and effective action, rather than a further lost opportunity, are outlined on page 16.

Other FTAs that Will Aid US Imports of Illegal Timber

In the past five years, the USTR has completed free trade pacts with Jordan, Chile, Singapore, Morocco, Australia, El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, the Dominican Republic (the previous six nations are part of CAFTA-DR), Bahrain, Peru and Oman. The USTR has also begun negotiations, or has plans to negotiate trade pacts with Panama, Columbia, Ecuador, the United Arab Emirates, Botswana, Lesotho, Namibia, Swaziland, South Africa, Thailand and South Korea. In addition, USTR is advocating for such multilateral agreements as a Free Trade Area of the Americas, an Enterprise for ASEAN Initiative and a Middle East Free Trade Area, among others, all with the intent of eliminating trade barriers and facilitating the movement of goods, services and investment between the US and these nations.[103]

Regarding forest products, many of the countries above have a bleak record in the wood products trade, whether as a financier of illegal logging operations, a transhipment hub for illegal timber or a nation unable to deal with the illegal logging occurring within its borders.

The latter is exemplified by Honduras, a nation that has already concluded FTA negotiations with the US (via the CAFTA-DR). EIA released an expose on the Honduran timber industry in October 2005, called *The Illegal Logging Crisis in Honduras.* EIA found that Honduras' illegal logging is so severe that the nation's mahogany could be gone within 10-15 years, as 80% of it is estimated to be illegally harvested. Additionally, 50% of Honduran pine is illegally cut and/or exported. The illegal timber trade is also used to smuggle narcotics and launder drug money. As the second-poorest country in the Western Hemisphere, Honduras cannot afford the $18 million it loses every year due to lost stumpage fees and other forest-based revenue, not to mention the lost environmental services that intact forests provide, such as protection from landslides, flooding and other environmental dangers.[104] Yet without any mechanisms to prevent US imports of illegal Honduran timber, the CAFTA-DR will lead to increased trade in illegally logged timber into the United States.

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Prized mahogany trees, like the one above, lure illegal loggers deep into rainforests of Central and South America.

Peru is another nation that has completed trade negotiations with the US and is making headlines for its rampant illegal logging problem. "Peruvian officials look the other way, granting logging permits without a baseline understanding of the mahogany population and failing to enforce regulations," according to a recent article in *Grist*.[105] Local groups estimate that "nearly all of Peru's mahogany exports are logged illegally…and more than 80 percent of the contraband harvest ends up in the United States."[106] Indigenous communities have accused illegal mahogany loggers in Peru of genocide,[107] and the CITES Secretariat has criticized Peru for not living up to its commitments. The US government and three leading US importers of mahogany are now facing a lawsuit by the Natural Resources Defense Council and two indigenous groups for importing mahogany in contravention of the US Endangered Species Act.[108] If it achieves its goal of 'expanding trade,' the free trade pact should be expected to increase illegal timber, including highly protected mahogany, reaching the US market. The current US-Peru trade agreement does not even require its parties to adhere to CITES, the only mechanism currently available to regulate mahogany trade.

Other countries such as South Korea and Thailand are leading timber products exporters to the US, the latter ranking 11th worldwide.[109] In order to sustain their wood processing industries, like Malaysia, many of these nations must import much of their raw materials from resource-rich nations in Southeast Asia, the Amazon Basin or West-Central Africa, another region with severe problems with illegal logging. Without a US policy to restrict its import of illegally produced wood products, FTAs with these processing countries will lead to increased illegal logging at the source and further hurt the US timber industry.

EIA found that illegal logging has reached epidemic scale in Honduras where almost all logging is illegal. The problem is exacerbated by conflict among communities and loggers and US demand for timber products, encouraged further by CAFTA-DR.

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Recommendations

1. Before the administration and Congress approve any further new FTAs, new legislative measures must be enacted and fully funded to stop the import, purchase and/or sale of illegally produced timber.

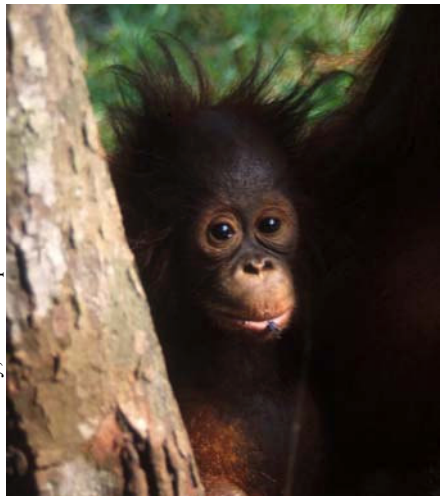
2. All new US FTAs must require, at minimum, dedicated enforcement staff *and* new financial and technical resources by both parties to prevent illegal timber and wood trade originating from or transiting via a nation entering into a FTA with the US.

3. The US must designate illegal logging and timber trade as an offence under existing money laundering laws and require all nations entering into a free trade pact with the US to enact a similar designation.

4. Timber producing and manufacturing nations must enact a chain of custody system to specify and track the origin of timber and wood products, similar to the system currently deployed to track textile trade.

5. The US should instigate and support a legally binding protocol agreement to an existing agreement (such as the Convention on International Trade in Endangered Species) in which parties agree to prohibit the import, sale, marketing and transport of illegal timber and wood.

6. The US should instigate and support the setting up of an intergovernmental enforcement body comprised of seconded enforcement officials from timber producing, importing and trading nations with a mandate to interdict and suppress illegal timber trade and associated forest crimes. This group will exchange information, intelligence and coordinate enforcement actions.



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